

IN THE DISTRICT COURT OF THE UNITED STATES
EASTERN DISTRICT OF PENNSYLVANIA

MICHAEL MILLER

Plaintiff,

v.

COUNTY OF LANCASTER, *et al.*,

Defendants.

Civ. No.: 5:24-cv-05338-JFL

Judge Joseph F. Leeson, Jr.

NOTICE OF CONTROLLING AUTHORITY

Plaintiff Michael Miller respectfully submits the following controlling authorities in support of his pending Motion to Clarify and Correct Misapplication of Rule 12(b)(1) and Rule 12(b)(6) Standards, filed March 24, 2025.

These authorities directly govern the proper analysis of facial jurisdictional challenges, Rule 12(b)(6) motions, the application of Rule 12(d), and the duty of federal courts to adjudicate constitutional claims when properly pleaded:

1. ***Mortensen v. First Fed. Sav. & Loan Ass’n***,

549 F.2d 884, 891 (3d Cir. 1977)

A facial challenge under Rule 12(b)(1) must be assessed using the same

standard as Rule 12(b)(6). The court must accept all allegations as true and may not resolve factual disputes.

2. ***Zwickler v. Koota,***

389 U.S. 241, 248–50 (1967)

Federal courts may not decline jurisdiction over properly pleaded constitutional claims, nor avoid review by asserting that alternative state forums are available. Delay or abstention may itself chill the constitutional rights asserted.

3. ***Rose v. Bartle,***

871 F.2d 331, 340–43 (3d Cir. 1989)

A court may not convert a Rule 12(b)(6) motion into a motion for summary judgment without notice, and must allow a full opportunity to respond under Rule 12(d).

4. ***Phillips v. Allegheny Cnty.,***

515 F.3d 224, 233 (3d Cir. 2008)

In evaluating Rule 12(b)(6) motions, the court must accept all well-pleaded allegations as true and draw all reasonable inferences in the plaintiff's favor. Plausibility does not require likelihood of success.

These authorities are binding or controlling in this Circuit and remain directly applicable to the analysis required in Plaintiff's case.

Respectfully submitted,

/s/ Michael Miller

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Dated: March 24, 2025

CERTIFICATE OF SERVICE

I hereby certify that I caused to be served by e-filing a true and correct copy of the foregoing document to the following:

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Respectfully Submitted,

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Dated: March 24, 2025